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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,626	07/02/2003	Gunter Steinert	70918	4066
23872	7590	03/28/2005		EXAMINER
MCGLEW & TUTTLE, PC 1 SCARBOROUGH STATION PLAZA SCARBOROUGH, NY 10510-0827			JACKSON, ANDRE K	
			ART UNIT	PAPER NUMBER
			2856	

DATE MAILED: 03/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/612,626	STEINERT ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	André K. Jackson	2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 16 December 2004.

2a)  This action is FINAL.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1 and 3-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 1 and 3-10 is/are allowed.

6)  Claim(s) 11, 13, 16 and 17 is/are rejected.

7)  Claim(s) 12, 14, 15 and 18-20 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.  
\_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 11 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stark.

Regarding claim 11, Stark discloses a first magnet coil body (Figure 1, Figure 8); a first housing for accommodating the first magnet coil body (Figure 8); a second magnet coil body; a second housing part for accommodating the second magnet coil body (Figure 8); a first metallic bar arranged centrally in the first housing part for use as a magnet pole for the measuring head (Figure 1); a second metallic bar arranged centrally in the second housing part for use as a magnet pole for the measuring head, the first metallic bar and the second metallic bar being located at spaced locations with a defined air gap in the assembled state of the measuring head (Figure 1) and a sample gas cuvette holder; and a sample gas cuvette support provided in the air gap between the first housing part and the second housing part for positioning the sample gas cuvette holder, the sample gas cuvette support being provided with a gas inlet and gas outlet (Figures 1-3). Stark does not explicitly disclose where the housing is made from a steel alloy. However, it is well within the purview of the

skilled artisan to provide the housing with a material that does not interfere with the performance of the instrument.

Regarding claim 16, Stark does not explicitly disclose where the first housing part and the second housing part are made of machining steel. However, it is well within the purview of the skilled artisan to provide the housing with a material that does not interfere with the performance of the instrument.

3. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stark in view of Krupp.

Regarding claim 13, Stark does not explicitly disclose a stationary sleeve provided for the connection to an external gas sampling system. However, Krupp discloses a stationary sleeve provided for the connection to an external gas sampling system (13,13'). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stark to include a stationary sleeve provided for the connection to an external gas sampling system. By adding this feature the apparatus would be able to provide the particular gas to be measured.

4. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stark in view Meyer.

Regarding claim 17, Stark does not explicitly disclose where the first housing part is formed as one piece with the first cylindrical bar, and

the second housing part is formed as one piece with the second cylindrical bar. However, Meyer discloses where the first housing part is formed as one piece with the first cylindrical bar, and the second housing part is formed as one piece with the second cylindrical bar (Figure 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stark to include where the first housing part is formed as one piece with the first cylindrical bar, and the second housing part is formed as one piece with the second cylindrical bar. By adding this feature the user would be able to have a small system with less non-integrated parts.

5. Claims 1,3-10 are allowed.
6. Claims 12,14,15 and 18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

7. Applicant's arguments with respect to claim 11, have been considered but are moot in view of the new ground of rejection.

Applicant has argued that Stark does not disclose a housing structure to accommodate the coils. However, as can be seen in Figure 8 there is a housing around coils (52 and 56). Since from this embodiment it is known to place a housing around the coils it would have been obvious to place a cylindrical housing around the coils in Figure 1.

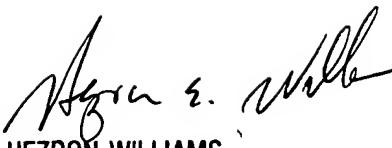
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to André K. Jackson whose telephone number is (571) 272-2196. The examiner can normally be reached on Mon.-Thurs. 7AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A.J. 

March 21, 2005



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